IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 17350 of 2007(M)

PETITIONER:

AHAMMAD, AGED 50,
K.K. MAMMU, KADAMBOTTU, PANANGADU P.O., TRICHUR.

BY ADV. SRI.N.DHARMADAN (SR.)

RESPONDENTS:
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1. CORPORATE MANAGEMENT FOR MES COLLEGES
REPRESENTED BY ITS CORRESPONDENT AND CHAIRMAN,
STANDING COMMITTEE ON MES COLLEGES, CALICUT-1.

2. UNIVERSITY OF CALICUT
REPRESENTED BY ITS VICE CHANCELLOR, CALICUT.

*R3. PRINCIPAL,
MES ASMABI COLLEGE,
VEMBALLOR,
KOTTAYAM

ADDITONAL RESPONDENT NO.3 IS IMPLEADED AS PER ORDER DT.14.6.07 IN I.A. NO.7845/07.

BY SRI. P.C. SASIDHARAN, SC, CALICUT UNIVERSITY
ADV. SRI.P.V.LOHITHAKSHAN FOR R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE TRANSFER ORDER DT. 24.5.07.

EXT.P2. COPY OF THE GAZETTE NOTIFICATION DT. 18.5.99.

EXT.P3. COPY OF THE ATTENDANCE CERTIFICATE IN THE VALUATION CAMP ISSUED BY THE CALICUT UNIVERSITY.

EXT.P4. COPY OF THE LETTER DT. 8.6.07.

EXT.P5. COPY OF THE FAX MESSAGE DT. 8.6.07.

EXT.P5(a). COPY OF THE FAX MESSAGE CONFIRMATION DT. 8.6.07.

EXT.P6. COPY OF THE FAX MESSAGE DT. 11.6.07.

EXT.P6(a). COPY OF THE MESSAGE CONFIRMATION DT. 11.6.07.

EXT.P7. COPY OF THE INTIMATION LETTER.

EXT.P8. COPY OF THE LETTER DT. 8.6.07.

EXT.P8(a). COPY OF THE LETTER DT. 11.6.07.

EXT.P8(b). COPY OF THE LETTER DT. 12.6.07.

EXT.P8(c). COPY OF THE LETTER DT. 13.6.07.

EXT.P8(d). COPY OF THE LETTER DT. 14.6.07.

EXT.P8(e). COPY OF THE LETTER DT. 15.6.07.

EXT.P9. COPY OF MEMORANDUM DT. NIL FILED BY PETITIONER.

RESPONDENT'S EXHIBITS:

EXT.R1(a). COPY OF THE RELIEVING ORDER NO.E2/2007-08 DT. 5.6.07 ISSUED BY THE PRINCIPAL, MES ASMABI COLLEGE TO THE PETITIONER.

EXT.R3(a). COPY OF THE POSTAL RECEIPT DT. 5.6.07 FOR SENDING THE RELIEVING ORDER TO THE PETITIONER AND FOLLO NO.158 & 159 OF THE DISPATCH REGISTER OF THE MES ASMABI COLLEGE.

EXT.R3(b). COPY OF THE ATTENDANCE REGISTER OF MES ASMABI COLLEGE FOR THE MONTH OF JUNE, 2007.

EXT.R(c). COPY OF THE LETTER DT. 7.6.07 SUBMITTED BY THE PETITIONER.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 17350 OF 2007

Dated this the 28th day of June, 2007

J U D G M E N T

Petitioner, who is working as Lecturer (Selection Grade) in the Department of Commerce in MES College, Kodungalloor, was transferred to MES College, Mampad, under the same management by order dated May 24, 2007. The said order, a copy of which is on record as Ext.P1, is impugned in this writ petition on various grounds.

2. The primary contention is that the action of the management is punitive and stigmatic. The above contention has been stoutly denied by the management. I do not propose to deal with the rival contentions at this stage in view of the consensus arrived at by the learned counsel for the parties at the Bar. I hasten to add that learned counsel on either side have been extremely fair in trying to create an atmosphere of goodwill and congeniality.

3. Petitioner appears to have a grievance that the management has totally misunderstood him in the sense that the

management is now under the impression that he had taken a partisan stand in the organisational elections reportedly held recently. Petitioner contends that he had not taken part in any such activity at all. Learned Senior counsel, Sri. Dharmadhan, invites my attention to Ext.P9 in this regard. Obviously, the management had not heard the petitioner before Ext.P1 order was issued.

4. Sri. Lohithakshan, learned counsel for the management, fairly submits that the management had taken the decision to transfer the petitioner since it was prima facie satisfied that his actions in the course of election were not above Board.

5. It was at this juncture a suggestion was put as to whether both sides were prepared to have an open dialogue on the issue, so that areas of controversy or misunderstanding, if any, could be cleared in the better interest of all concerned. As mentioned earlier, both sides have been extremely forthright and co-operative. Learned counsel for the management submits that the management is prepared to hear the petitioner with an open mind.

In the above facts and circumstances, this writ petition is disposed of with a direction to the management to consider the representation, if any, that may be submitted by the petitioner within 7 days from today in which it will be open to him to highlight all the aspects of the issue which he would like to project before the management. The management shall afford an opportunity to the petitioner for a personal hearing within 7 days from the date of receipt of the representation, so that the entire process can be finished within 15 days from today. Till such time the process is completed, learned senior counsel, agrees that petitioner is prepared to join duty at Ponnani where there is a vacancy to accommodate him provisionally.

The manager shall therefore issue an appropriate order in modification to Ext.P1 and Ext.R3(a) order so that petitioner can assume charge at Ponanni within 3 days from today. As regards the proposal of the management to initiate disciplinary proceedings against the petitioner, it is made clear that it will be open to the management to take recourse to any action which it proposes to take. But such action shall be kept in abeyance till the process of hearing indicated in the preceding paragraph of

the judgment is completed. Similarly, Ext.P1 order shall also be subject to the above decision of the management. It is made clear that the transfer of the petitioner to Ponnani is only provisional and subject to the final decision to be taken by the management after hearing the petitioner.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007